

**LFC Requester:****Connor Jorgensen****AGENCY BILL ANALYSIS  
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)***and***[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☒ Amendment ☐  
Correction ☐ Substitute ☐**Date** 1/28/2016**Bill No:** HB 259**Sponsor:** Rep. Zachary J. Cook**Agency Code:** 305**Short Title:** Consultant Disclosure of Client Info**Person Writing** Dylan K. Lange, AAG**Phone:** 827-7479**Email** dlange@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**Synopsis:**

HB259 amends the financial disclosure act to require consulting operations to disclose the names and addresses of all clients contributing more than \$1,000 in fees.

The bill amends Subsection C(3) and adds new language. The Bill adds disclosure language regarding a consulting operation or similar business of the person or spouse. The Bill requires the names and addresses of all clients contributing more than one thousand dollars in fees to the reporting person's or spouse's gross income.

**FISCAL IMPLICATIONS** n/a

**SIGNIFICANT ISSUES**

There are privacy issues relating to the disclosure of consulting clients names and addresses contributing more than \$1000 in fees as currently proposed in Subsection C(3). In light of the advent of identity theft and other abuses associated with the release of personal information, the Legislature should bear in mind that the release of this information might lead to substantial harm to clients of a political candidate or appointed official. Additionally, depending on the nature of the consulting work, the very nature of a client list could be confidential. Moreover, there could be many consulting services provided by candidates or appointed employees that do not relate at all to their function in state government.

There are other laws, e.g., the Governmental Conduct Act, which would apply to elected or state officials' conflicts and disclosure requirement during their employment or appointment. Under the Government Conduct Act, such disclosures would come on a case by case basis instead of a blanket disclosure of every client whom a candidate contracted with in the past. Client privacy concerns must be weighed adequately before compulsory disclosure of their personal information, as proposed in this amendment.

As written, Subsection C(2) provides that a consulting operation or similar business that is or was a registered lobbyist under the Lobbyist Regulation Act, to provide the names and addresses of all clients represented for lobbying purposes during those two year. This disclosure does not raise the same concerns as the new proposed language does under Subsection C(3), for the clients at issue in Subsection C(2) are lobbyist, and their work/relationship directly relates to the

work of an elected or appointed official. Additionally, disclosure under Subsection C(2) is not contingent on a fee amount before disclosure.

Moreover, the threshold of \$1000 is too low and tedious as proposed. If I am attorney, a reasonable fee for my services would be \$300-\$500 dollars per hour. A political candidate should not have to disclose every client she does more than 3 hours of work for. Nowhere else in the statute is the threshold for reporting or disclosure a mere \$1000.

Further, the word “consulting operation” is not defined in the definition section of 10-16A-2. The term is too vague and broad to have any meaningful effect. It should be defined if disclosure of personal identifying information of clients must be disclosed as proposed in this amendment.

Finally, why does a spouse have to disclose his client list for a consulting business? This requirement is too broad and does nothing to protect the privacy rights of the clients affected by the disclosure. Why must a spouse disclose the names of his elder care advocacy clients or his SAT preparation clients because his spouse is appointed to or running for state government?

#### **PERFORMANCE IMPLICATIONS n/a**

#### **ADMINISTRATIVE IMPLICATIONS**

There must be some administrative protection regarding the handling of confidential and sensitive information gathered from this mandatory disclosure.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP n/a**

#### **TECHNICAL ISSUES n/a**

#### **OTHER SUBSTANTIVE ISSUES Please see above**

#### **ALTERNATIVES n/a**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status quo.**

#### **AMENDMENTS**